

Appl. No. : 10/691,058
Filed : October 21, 2003

REMARKS

Applicant has the following remarks in response to the Office Action

Discussion of Claim Status

Claims 1-4 are allowed and 10-27. Claims 5, 6, 8, 9, 29-36 and 38-59 are rejected. In the Office Action, the Examiner noted certain typos in Claims 11, 12, 17, and 18. Applicant respectfully submits that this has been corrected in the above-listed claim set.

Discussion of Claim Rejections Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected Claims 5-9 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,602,918, to Chen, et al. (hereinafter "Chen"). Applicant respectfully disagrees with these rejections.

Applicant respectfully submits that a claim is anticipated only if each and every limitation as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. § 2131. Applicant respectfully submits that Kirby does not expressly teach or suggest the use "wherein the network security device is configured to use association establishment messages for the secured users exchanging security parameters." Applicant notes that the cited limitation was originally recited in dependent Claim 8 (now cancelled). In the Office Action, the Examiner failed to particularly identify where this feature was described or suggested in the cited prior art. Applicant respectfully submits that the disclosure of Chen has been reviewed, and Applicant submits this limitation is not taught or suggest by it.

Since Chen fails to teach or suggest at least one limitation, independent Claim 5 is now in condition for allowance. Furthermore, since Claims 6, 8, and 9 each depend on Claim 5, they are allowable for the reasons discussed above and the subject matter of their own limitations.

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Discussion of Claim Rejections Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected Claims 28-36 and 38-47 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of by U.S. Patent No. 5,826,014, to Coley, et al. (hereinafter "Coley"). Applicant respectfully disagrees with these rejections.

To establish a *prima facie* case of obviousness a three-prong test must be met. First, there must be some suggestion or motivation, either in the references or in the knowledge generally available among those of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success found in the prior art. Third, the prior art reference must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). Applicant respectfully submits that the cited prior art fails to teach or suggest at least one limitation from each of the above-listed claims.

Independent Claim 28 recites, the following limitations:

- intercept a message from a source to a destination;
- determine a first security parameter associated with the source;
- determine a second security parameter associated with the destination,

wherein the device is configured to send association establishment messages over the network to determine at least one of the first or second security parameters;

- identify a security policy based on the first and second security parameter;
- determine whether said message complies with said security policy; and
- transmit said message to the destination if said message complies with said security policy.

In the Office Action, the Examiner failed to particularly identify where each of the above-limitations are taught or suggested by the cited prior art. In the Office Action, the Examiner generally describes the teachings of Chen, but fails to particularly describe how they relate to the above claim limitations. For example, as is recited above, there is no discussion of in the Office Action as to what features of Chen could correspond to the function of determining a security parameter associated with both a source and a destination. Applicant respectfully submits that the disclosure of Chen has been reviewed, and Applicant submits this limitation is not taught or suggested by it.

Furthermore, Applicant respectfully submits that the Examiner has failed to particularly describe where in the prior art is taught or suggested the limitations of the other rejected claims. For example, Claim 38 recites, among other limitations: "inhibiting covert channel use." Claim

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39 recites: “wherein inhibiting covert channel uses comprises limiting the rate of data transfer between a secure source and an insecure destination to a covert channel rate.” Claim 46 recites: “determining when one of the secured users receives initial information from one of the unsecured users that is not already established; and creating an entry in an association table indicative of at least the unsecured user's IP address and association type.” Applicant submits that the Examiner has failed to particularly show each of the claims 38-47 are taught or suggested by the cited prior art.

Applicant submits that that “whenever, on examination, any claim for a patent is rejected, or any objection ... made, notification of the reasons for rejection and/or objection together with such information and references as may be useful in judging the propriety of continuing the prosecution (35 U.S.C. 132) should be given.” *M.P.E.P.* § 707. The Applicant submits that the Examiner’s summary rejection of the claims, without citing to specific portion(s) of the above references, amounts to depriving the applicant of the opportunity to respond completely and with particularity as to why the claims are patentable. Thus, if the Examiner wishes to sustain the rejection of the claims based on the same reference(s), the Examiner is requested to “clearly articulate any rejection early in the prosecution process so the applicant has the opportunity to provide evidence of patentability and otherwise respond completely at the earliest opportunity.” *See M.P.E.P.* § 706. More particularly, the Examiner is requested to provide the Applicant with specific citations to the reference(s) and to explain where and how the reference(s) anticipates the claims. If so, the Applicant should be entitled to have at least one opportunity to respond without having the burden of filing a request for continued examination (RCE).

Summary

Applicant has endeavored to address all of the Examiner’s concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and the claims would satisfy the statutory requirements for patentability without the entry of such amendments. In addition, such amendments do not narrow the scope of the claims. Rather, these amendments have only been

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made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

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By: _____



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